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6
7 **UNITED STATES BANKRUPTCY COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

9 In re:

Bankruptcy Case No. 15-52244

10 Loretta Birmingham,

Chapter 13

11 Debtor.

**OBJECTION TO CONFIRMATION OF
CHAPTER 13 PLAN**

MEETING OF CREDITORS:

DATE: August 24, 2015

TIME: 9:30 AM

PLACE: San Jose Room 130

CONFIRMATION HEARING:

DATE: September 11, 2015

TIME: 9:55 AM

CTRM: 3020

19 **TO THE HONORABLE M. ELAINE HAMMOND, UNITED STATES BANKRUPTCY**
20 **COURT JUDGE, THE CHAPTER 13 TRUSTEE, THE DEBTOR, AND THE DEBTOR'S**
21 **ATTORNEY:**

22 Bank of America, N.A. ("BANA") is the holder of a secured claim recorded against
23 property in which the Debtor claims an interest. BANA is, therefore, a party in interest and has
24 standing to object to the Debtor's Chapter 13 Plan.

25 BANA is the holder of a claim secured only by a security interest in real property
26 commonly known as 1050 Ortega Circ., Gilroy, CA 95020. The total amount due and owing under
27 the Promissory Note is approximately \$412,601.39 and the pre-petition arrearage amount owed is
28 approximately \$2,542.79. Section 1322(b)(2) of the U.S. Bankruptcy Code provides, in relevant part,

1 as follows:

2 (b) Subject to subsections (a) and (c) of this section, the plan may--

3 . . .

4 (5) notwithstanding paragraph (2) of this subsection, provide for the curing of
5 any default within a reasonable time and maintenance of payments while the case
6 is pending on any unsecured claim or secured claim on which the last payment is
7 due after the date on which the final payment under the plan is due; . . .

8 The Debtor's Plan does not propose to cure the pre-petition arrears owed to BANA.
9 Therefore, the Plan does not comply with § 1322(b)(5).

10 Based on the foregoing, BANA respectfully requests that the Court deny confirmation on
11 the Debtor's Chapter 13 Plan or order that the Chapter 13 Plan be amended to provide for full
12 payment of BANA's pre-petition arrearages.

13
14 DATED: August 24, 2015

Respectfully Submitted,

15 MALCOLM ♦ CISNEROS, A Law Corporation

16 /s/ Brandye Foreman

17 Brandye Foreman,
18 Attorneys for Bank of America, N.A.

STATE OF CALIFORNIA

COUNTY OF ORANGE

On August 24, 2015, I served the following document described as OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Irvine, California (and via telecopy or overnight mail where indicated), addressed as follows:

Loretta Birmingham
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San Martin, CA 95046

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San Jose, CA 95113

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/s/Michael Levine